

RECORDATION NO

17189-H  
FILED

OCT 15 '98

2-37 PM

ALVORD AND ALVORD

ATTORNEYS AT LAW

918 SIXTEENTH STREET, N W

SUITE 200

WASHINGTON, D C

20006-2973

(202) 393-2266

FAX (202) 393-2156

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

October 15, 1998

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D C 20423

Dear Mr. Williams

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are four (4) copies of an Assignment and Assumption Agreement, dated as of September 30, 1998, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Lease duly filed with the Commission under Recordation Number 17189

The names and addresses of the parties to the enclosed document are:

Seller            GWI Leasing Corporation  
                     71 Lewis Street  
                     Greenwich, CT 06830

Buyer            ATEL Leasing Corporation  
                     235 Pine Street, 6<sup>th</sup> Floor  
                     San Francisco, California 94104

A description of the railroad equipment covered by the enclosed document is set forth on Exhibit A attached to the Fourth Amendment

Mr. Vernon A Williams  
October 15, 1998  
Page 2

Also enclosed is a check in the amount of \$26 00 payable to the order of the  
Surface Transportation Board covering the required recordation fee

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



for

Robert W Alvord

RWA/bg  
Enclosures

SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C. 20423-0001

OFFICE OF THE SECRETARY

Date: 10/15/98

Robert W. Alvord  
Alvord And Alvord  
918 Sixteenth Street, NW., Ste. 200  
Washington, DC., 20006-2973

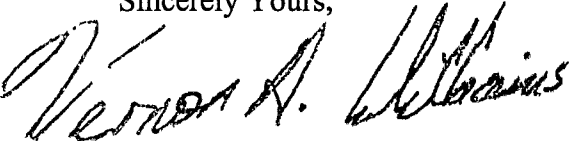
Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of 49 U.S.C. 11301

and 49 CFR 1177.3(c), on 10/15/98 at 2:37 PM , and

assigned recordation number(s). 11396-G, 12864-G, 12985-G, 13154-E, 13231-E,  
17189-G, 17189-H, 18722-F and 20036- D.

Sincerely Yours,

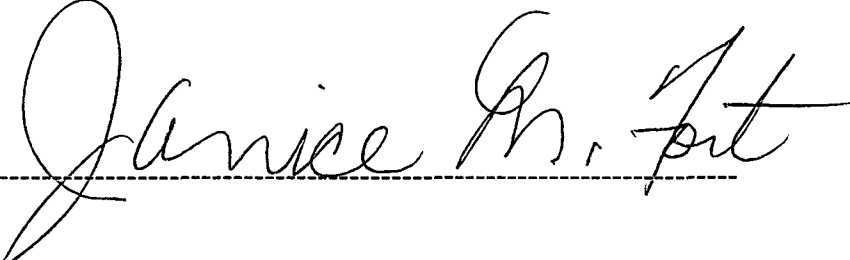
  
Vernon A. Williams

Enclosure(s)

234.00

\$\_\_\_\_\_ The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid. In the event of an error or any questions concerning this fee, you will receive a notification after the Surface Transportation Board has an opportunity to examine your document.

Signature-----



OCT 15 '98

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ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT**, dated as of September 30, 1998 (this "Agreement"), is between **GWIL LEASING CORPORATION** (previously mistakenly referred to as **GWIL Railcar, Inc.**), a Delaware corporation having its principal place of business at 71 Lewis Street, Greenwich, CT 06830 ("Seller"); and **ATEL LEASING CORPORATION**, a California corporation, having its principal place of business at 235 Pine Street, 6th Floor, San Francisco CA 94104 ("Buyer").

WITNESSETH:

**WHEREAS**, Seller has acquired and owns the equipment and all attachments and accessions thereto (hereinafter known collectively as the "Equipment") listed and described on Exhibit "A" attached hereto and made a part hereof. The Equipment has been leased to **Cargill, Inc.** (as successor in interest by assignment to AKZO Salt Inc.) ("Lessee") pursuant to a Lease dated as of July 1, 1990, (the "Lease"), between GWIL Railcar, Inc. [sic] as lessor, and AKZO Salt Inc. as lessee and Equipment Addendum I, Equipment Addendum II, and Equipment Addendum III, each dated as of November 8, 1990 (collectively, the "Equipment Schedules"), as amended by the First Amendment to Lease dated December 21, 1990; and the Second Amendment to Lease dated July 20, 1991; and the Third Amendment to Lease dated December 1, 1991 (collectively, the "Amendments") (collectively, the Lease and the Equipment Schedules as amended by the Amendments and any and all other instruments, agreements or documents relating to the overall transaction hereinafter referred to as the "Lease").

**WHEREAS**, the Buyer and the Seller have entered into that certain Purchase Agreement and Assignment of Lease, dated as of September 30, 1998 (the "Purchase Agreement"), providing for the purchase of the Equipment (as defined on Exhibit A hereto) by the Buyer from the Seller, subject to the terms and conditions set forth therein;

**WHEREAS**, as a condition precedent to the execution and delivery of the Purchase Agreement, Seller and Lessee will enter into an amendment to the Lease (the "Amendment") wherein Equipment Addendum III to the Lease shall be severed and made separate and distinct from the Equipment Schedules;

**WHEREAS**, concurrent with the execution and delivery of the Purchase Agreement, Buyer and Seller shall

enter into a Management Agreement dated as of even date as the Purchase Agreement (the "Management Agreement") whereupon Seller shall agree to manage the cars on behalf of Buyer under the terms and conditions of the Management Agreement; and

**WHEREAS**, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer to effect such purchase.

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Capitalized terms used herein without definition shall have the meanings assigned to them in the Purchase Agreement.

2. Assignment. The Seller hereby sells to the Buyer all of the Seller's rights, title and interest in and to the Equipment and assigns and delegates to the Buyer all of the Seller's rights and obligations under the Lease with respect to the Equipment. Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence on or prior to the Closing.

3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment. The Buyer hereby accepts the assignment contained in Section 2 hereof and, on and after the Closing, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Lease solely with respect to the Equipment. The Seller, on and after the Closing, is released of all obligations of the Seller under the Lease, and with respect to the Equipment, except for those representations and warranties, covenants and indemnities which survive the termination of the Lease, and except for its obligations under the Management Agreement. The Buyer does not assume, and shall not be responsible for, any obligation or liability (i) which arose or may arise from or be related to any event or circumstance occurring or in existence at or prior to the Closing, (ii) arising from or related to any breach by the Seller or any of its obligations under any Lease, or (iii) which arose or may arise from or be related to the Amendment and Equipment Addendum III.

4. Representations as to Applicable Law. To the best of its knowledge, the Seller represents and warrants that the transfer of the Lease and the assignment and assumption as contemplated by the Purchase Agreement and effected hereby do not violate any provision of any applicable license, judgment, order, statute, law or regulation or create a relationship which would be in violation of any thereof. To the best of its knowledge, the Buyer represents and warrants that the transfer of the Lease and the assignment and assumption as contemplated by the Purchase Agreement and effected hereby do not violate any provision of any applicable license, judgment, order, statute, law or regulation or create a relationship which would be in violation of any thereof.

5. Representations and Warranties of Buyer. The buyer represents and warrants that:

(a) The Buyer is a corporation validly existing and in good standing under the laws of the State of California, and has full power and authority to enter into, execute and deliver this Agreement and the Purchase Agreement, and to perform each and all matters and things required to be observed or performed by it hereunder and thereunder and under the Lease;

(b) This Agreement and the Purchase Agreement have been duly authorized, and when this Agreement and the Purchase Agreement have been executed and delivered by the Buyer, this Agreement, the Purchase Agreement and the Lease will constitute the legal, valid and binding obligations, contracts and agreements of the Buyer enforceable in accordance with their respective terms, except as such terms may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally;

(c) No approval, consent, or withholding of objection on the part of any federal, state or other governmental body with respect to the Buyer is necessary in connection with the lawful execution and delivery of this Agreement or the Purchase Agreement or the carrying out by the Buyer of any of the transactions contemplated hereby or thereby or by the Lease;

(d) There are no actions, suits or proceedings at law or in equity or by or before any governmental body or other agency pending against, or, to the knowledge of the Buyer, threatened against the Buyer

which would question the right, power or authority of the Buyer to enter into or perform this Agreement, the Purchase Agreement or the Lease or which would have a material adverse effect on the ability of the Buyer to fulfill its obligations hereunder or thereunder; and

(e) The entering into of the Purchase Agreement and this Agreement by the Buyer and the performance of the Buyer of the Purchase Agreement, this Agreement and the Lease will not violate any provision of the Buyer's articles of incorporation or bylaws or any judgment, order, law or regulation applicable to it or result in the creation or imposition of any lien, charge, security interest or other encumbrance upon the Equipment or result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, bank loan, credit agreement, loan agreement or other instrument to which it or any of its affiliates is a party or by which it or its assets may be bound.

6. Definitions. Except as otherwise specified or as the context may otherwise require, the capitalized terms whenever used in this Agreement but not otherwise defined in this Agreement have the respective meanings set forth in the Purchase Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

7. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

8. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by the Purchase Agreement.

9. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

10. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

11. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with,

the internal, substantive laws of the State of California without giving effect to the conflict of law rules thereof.

12. Entire Agreement. This Agreement and the Purchase Agreement (together with Exhibits and Schedules hereto and thereto) represent the entire agreement of the parties hereto with respect to the subject matter hereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

13. Recordation. The Seller agrees to record this Agreement with the Surface Transportation Board and the Registrar General of Canada to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease and with respect to the Equipment.

**IN WITNESS WHEREOF**, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

SELLER:

**GWI LEASING CORPORATION**

By: 

Title: President

BUYER:

**ATEL LEASING CORPORATION**

By: 

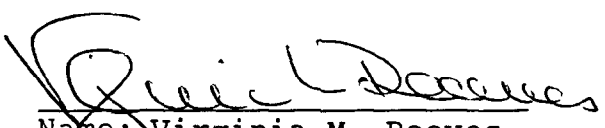
Title: Dean Cash  
President



State of Connecticut )  
County of Fairfield ) ss.

On this, the 29 day of Sept., 1998, before me, a Notary Public in and for said County and State, personally appeared Mark W. Hastings, personally known to me, whose name is subscribed to this instrument and acknowledged to me that he executed the same on such day in his capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have set my hand and official seal on the date above mentioned.

  
Name: Virginia M. Reeves  
Notary Public  
My Commission Expires:

(Notarial Seal)

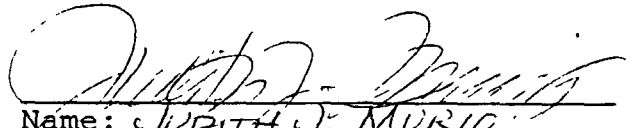
VIRGINIA M. REEVES  
NOTARY PUBLIC  
COMMISSION EXPIRES MAR. 31, 2003

State of California )  
 ) ss.  
County of San Francisco )

On this, the 13<sup>th</sup> day of October, 1995, before me, a Notary Public in and for said County and State, personally appeared Dean Cash, personally known to me, whose name is subscribed to this instrument and acknowledged to me that he executed the same on such day in his capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have set my hand and official seal on the date above mentioned.



  
Name: JUDITH J. MURIO  
Notary Public  
My Commission Expires: 9-15-99

(Notarial Seal)

**ADDENDUM I****Equipment Location:** North America**Equipment Description:** 100-ton 3500 cu. ft. covered hopper cars; 1978 National Steel Series 810000; Rebuilt 91 Warren Railcar Series 4000; 1980 Portec Series 30000

GWIX 4000	GWIX 4049	GWIX 4101	GWIX 30041
GWIX 4001	GWIX 4050	GWIX 4102	GWIX 30045
GWIX 4002	GWIX 4051	GWIX 4103	GWIX 30048
GWIX 4003	GWIX 4052	GWIX 4104	GWIX 30047
GWIX 4005	GWIX 4053	GWIX 4106	GWIX 30048
GWIX 4007	GWIX 4055	GWIX 4107	
GWIX 4008	GWIX 4056	GWIX 4110	
GWIX 4010	GWIX 4057	GWIX 4111	
GWIX 4011	GWIX 4059	GWIX 4112	
GWIX 4012	GWIX 4061	GWIX 4113	
GWIX 4013	GWIX 4062	GWIX 4116	
GWIX 4015	GWIX 4063	GWIX 4117	
GWIX 4016	GWIX 4064	GWIX 4118	
GWIX 4017	GWIX 4065	GWIX 4120	
GWIX 4018	GWIX 4067	GWIX 810060	
GWIX 4020	GWIX 4068	GWIX 810061	
GWIX 4021	GWIX 4069	GWIX 810062	
GWIX 4022	GWIX 4070	GWIX 810063	
GWIX 4023	GWIX 4071	GWIX 810064	
GWIX 4024	GWIX 4073	GWIX 810065	
GWIX 4025	GWIX 4074	GWIX 810066	
GWIX 4026	GWIX 4075	GWIX 810067	
GWIX 4027	GWIX 4076	GWIX 810068	
GWIX 4028	GWIX 4077	GWIX 810069	
GWIX 4029	GWIX 4078	GWIX 30003	
GWIX 4031	GWIX 4079	GWIX 30005	
GWIX 4032	GWIX 4080	GWIX 30008	
GWIX 4033	GWIX 4081	GWIX 30012	
GWIX 4034	GWIX 4083	GWIX 30017	
GWIX 4035	GWIX 4084	GWIX 30019	
GWIX 4036	GWIX 4085	GWIX 30021	
GWIX 4037	GWIX 4087	GWIX 30024	
GWIX 4038	GWIX 4089	GWIX 30025	
GWIX 4042	GWIX 4092	GWIX 30027	
GWIX 4043	GWIX 4094	GWIX 30030	
GWIX 4044	GWIX 4096	GWIX 30034	
GWIX 4046	GWIX 4097	GWIX 30037	
GWIX 4047	GWIX 4099	GWIX 30039	
GWIX 4048	GWIX 4100	GWIX 30040	

**EXHIBIT A**

**ADDENDUM II****Equipment Location:** North America**Equipment Description:** 100-ton 4750 cu. ft. covered hopper cars; 1978 Pullman

GWIX	10003	GWIX	10063	GWIX	10120	GWIX	10178
GWIX	10004	GWIX	10065	GWIX	10121	GWIX	10177
GWIX	10006	GWIX	10068	GWIX	10124	GWIX	10179
GWIX	10009	GWIX	10070	GWIX	10126	GWIX	10181
GWIX	10010	GWIX	10071	GWIX	10130	GWIX	10184
GWIX	10012	GWIX	10073	GWIX	10131	GWIX	10187
GWIX	10017	GWIX	10074	GWIX	10133	GWIX	10190
GWIX	10019	GWIX	10075	GWIX	10135	GWIX	10191
GWIX	10021	GWIX	10077	GWIX	10138	GWIX	10195
GWIX	10022	GWIX	10079	GWIX	10139	GWIX	10199
GWIX	10023	GWIX	10080	GWIX	10140		
GWIX	10024	GWIX	10082	GWIX	10142		
GWIX	10025	GWIX	10083	GWIX	10145		
GWIX	10027	GWIX	10084	GWIX	10146		
GWIX	10031	GWIX	10088	GWIX	10147		
GWIX	10032	GWIX	10090	GWIX	10152		
GWIX	10034	GWIX	10092	GWIX	10156		
GWIX	10036	GWIX	10093	GWIX	10157		
GWIX	10040	GWIX	10097	GWIX	10158		
GWIX	10041	GWIX	10099	GWIX	10159		
GWIX	10043	GWIX	10100	GWIX	10162		
GWIX	10044	GWIX	10102	GWIX	10163		
GWIX	10045	GWIX	10103	GWIX	10164		
GWIX	10047	GWIX	10104	GWIX	10166		
GWIX	10048	GWIX	10105	GWIX	10168		
GWIX	10049	GWIX	10110	GWIX	10169		
GWIX	10058	GWIX	10111	GWIX	10171		
GWIX	10060	GWIX	10112	GWIX	10173		
GWIX	10061	GWIX	10119	GWIX	10174		

**EXHIBIT A**

XXXXXXXXXXXXXXXXXXXX

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### ADDENDUM III

**Equipment Location:** North America

**Equipment Description:** 4550 cu. ft. covered hopper cars

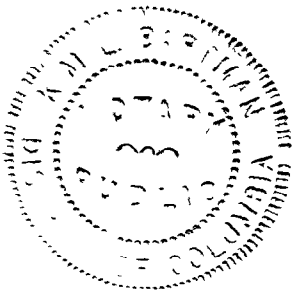
GWIX 810015	GWIX 810109	GWIX 810233	GWIX 20022
GWIX 810023	GWIX 810113	GWIX 810242	GWIX 20025
GWIX 810035	GWIX 810114	GWIX 810256	GWIX 20049
GWIX 810038	GWIX 810161	GWIX 810277	
GWIX 810044	GWIX 810165	GWIX 810293	
GWIX 810049	GWIX 810166	GWIX 810305	
GWIX 810057	GWIX 810167	GWIX 810306	
GWIX 810072	GWIX 810170	GWIX 810312	
GWIX 810075	GWIX 810171	GWIX 810323	
GWIX 810079	GWIX 810172	GWIX 810324	
GWIX 810082	GWIX 810176	GWIX 810327	
GWIX 810083	GWIX 810180	GWIX 810336	
GWIX 810085	GWIX 810185	GWIX 810339	
GWIX 810089	GWIX 810190	GWIX 810340	
GWIX 810091	GWIX 810198	GWIX 810341	
GWIX 810093	GWIX 810208	GWIX 810342	
GWIX 810094	GWIX 810214	GWIX 810346	
GWIX 810096	GWIX 810218	GWIX 810357	
GWIX 810099	GWIX 810230	GWIX 810359	
GWIX 810106	GWIX 810231	GWIX 810373	

**EXHIBIT A**

District of Columbia       )  
                                      )  
City of Washington       )       ss

I, KIM L BARTMAN, Notary for the District of Columbia, hereby certify that the attached "Assignment and Assumption Agreement", dated as of September 30, 1998 between GWI Leasing Corporation, as Seller and Atel Leasing Corporation, as Buyer, is a true and complete copy of the original thereof

Certified this 21st day of October, 1998



*Kim L. Bartman*  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires   3-31-2000